

Applicant: Van Tassel et al.
Serial No.: 09/382,275
Group Art Unit: 3738

PATENT
Docket No. 20220-311

REMARKS

This Amendment After Final Rejection is filed in response to the Final Official Action mailed July 22, 2003 in connection with the above-referenced application. Claims 1, 2, 30, 43-45, 58-64 and 73-75 are currently pending. Of these claims, claims 1 and 58 are independent.

In this Amendment, independent claims 1 and 58 are amended. For the reasons stated below, it is submitted that the proposed amended claims are in condition for allowance. As such, it is requested that the Amendment be entered and a Notice of Allowance be issued.

In the Final Office Action, the Examiner indicated that the reason for the continued prior art rejections based on U.S. Patent No. 5,843,172 to Yan by itself (anticipation) or on the Yan reference in combination with U.S. Patent No. 5,078,736 to Behl (obviousness) is primarily due to the Examiner's reconsideration of the Yan reference. In particular, the Examiner identified Column 2, lines 39-46; Column 6, lines 23-43; and Figure 4 of the Yan reference as the basis for continuing the rejection (and for reversing the Examiner's earlier initial indication in the interview of September 24, 2002 that the claims were allowable). In this regard, the Applicants have reviewed these identified sections of the Yan reference and submit the following remarks.

Taking first Column 2, lines 39-46 of Yan, the Examiner is directed to the statement that the "sheet or tube is cut according to a pattern that allows the stent to be expanded and deployed into the vasculature." According to the disclosure of the Yan reference, such a "pattern" means a pattern that has the large interstitial spaces or "holes" along the length of the stent (See Fig. 1). This is the only type of pattern that is disclosed in the Yan reference and this is the only type of pattern that is contemplated in the Yan reference. Indeed, this is the only type of pattern that will work for the Yan stent since it must have these large interstitial holes in order for the stent structure to have the capability to expand into place inside the vessel.

Such a pattern is wholly different from the present invention where it is presently claimed that the stent body has a plurality of interconnected microholes distributed throughout said stent body substantially uniformly along the entire length of said stent

Applicant: Van Tassel et al.
Serial No.: 09/382,275
Group Art Unit: 3738

PATENT
Docket N. 20220-311

body. In other words, the stent of the present invention does not anywhere have the large interstitial holes as in the Yan patent, only a plurality of interconnected microholes as presently claimed.

If there is any doubt as to the aforesaid explanation of Column 2, lines 39-46, that doubt is eliminated when considering the disclosure at Column 6, lines 23-43 and Fig. 4 of the Yan reference. In this regard, the Examiner's attention is directed to the Brief Description of the Drawings of the Yan reference at Column 3, line 25, where it is stated that

"Fig. 4 is a porous **stent wire or strut** in partially magnified, partially cut away perspective manufactured according to one embodiment of the present invention. (emphasis added).¹

As is thus evident, Figure 4 (and thus the text at Column 6, lines 23-43) is a depiction and description of the porosity of the "stent wire or strut" as opposed to the porosity of the surface of the stent as a whole as apparently understood by the Examiner. In other words, Figure 4 and Column 6, lines 23-43 are describing the porosity of the stent **wire** or the stent **strut** alone and not of the surface of the stent body that results when the wire (or strut) is woven (or otherwise fabricated) into the stent form.² Indeed, the resulting stent body according to the disclosure of the Yan reference would still have the large interstitial holes since Yan discloses a stent that needs such holes in order to expand against the vessel walls.

As stated above, this is all in contrast to the present invention. The present invention does not contemplate these large interstitial holes. Instead, the present invention (both apparatus and method) pertains to a stent body having a plurality of interconnected microholes distributed throughout said stent body substantially uniformly along the entire length of said stent body. This inventive aspect of the

¹ It is noted that Figure 2 (which is also referred to in Column 6, lines 23-43) also is also referred to as depiction of a porous "**stent wire or strut**"

² This also makes sense from a technological point of view since the Yan stent is based on the conventional wisdom of promoting tissue ingrowth through the large interstitial holes. The only reason Yan desires porosity in the wire (or strut) is to provide a platform for depositing an anti-restenosis drug.

Applicant: Van Tassel et al.
Serial No.: 09/382,275
Group Art Unit: 3738

PATENT
Docket No. 20220-311

invention promotes a growth pattern of infiltrating cells throughout said stent body that is not achieved with the stent as disclosed in Yan.

Nor does the Behl reference make up for the apparent deficiencies of the Yan reference. Hence, it is submitted that the currently asserted rejections cannot properly stand. It is further submitted that the presently claims are in condition for allowance and thus that the Amendment should be entered.

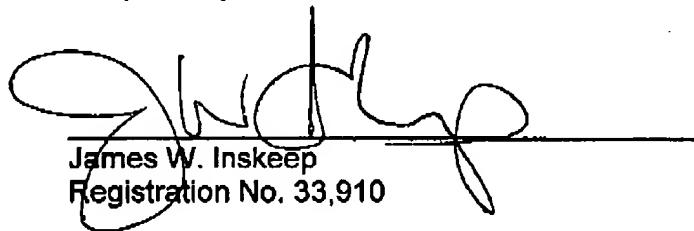
If questions arise regarding this Amendment or any other matters pertinent to the continued examination of this application, the Examiner is cordially urged to contact the undersigned at the telephone number listed below.

REQUEST FOR INTERVIEW

Pursuant to MPEP Section 713.02, the Applicants desire to conduct an interview with the Examiner either prior to or simultaneous with the Examiner's consideration of this Amendment. Both the undersigned attorney and an inventor, Dr. Robert S. Schwartz, will attend an in-person interview with the Examiner at the Examiner's convenience. The Examiner is requested to contact the undersigned at the number below in order to schedule this interview.

Respectfully submitted,

Dated: Jan 22, 2004



James W. Inskeep
Registration No. 33,910

INSKEEP INTELLECTUAL PROPERTY GROUP, INC.
1225 W. 190th Street, Suite 205
Gardena, CA 90248
Telephone: (310) 217-6220
Facsimile: (310) 327-0282